

The Commission's NPRM sought comments on issues that were common to rural, insular, and high-cost areas, including who is eligible for support.<sup>41</sup> In discussing these issues, the Commission did not contemplate or suggest that assistance for insular areas should differ among carriers. Rather, the Commission correctly focused on the designation of eligible carriers, according to the requirements of Section 214(e), regardless of whether they are rural or non-rural local exchange carriers. Similarly, the Common Carrier Bureau initiated a more detailed inquiry into the appropriate support for insular areas in its subsequent Public Notice.<sup>42</sup> The Bureau asked what programs would be needed to ensure that insular areas have affordable telecommunications service and how support should be calculated for those areas, like insular areas, that are not included in the proxy model.<sup>43</sup> The issues identified in this context affect carriers serving insular areas whether or not they are also rural carriers.

Indeed, the Joint Board "recognize[d] the special circumstances faced by carriers and consumers in the insular areas of the United States . . . ." <sup>44</sup> The Joint Board based its

---

<sup>41/</sup> See NPRM at ¶¶ 41-49.

<sup>42/</sup> See Common Carrier Bureau Seeks Further Comments on Specific Questions in Universal Service Notice of Proposed Rulemaking, CC Docket No. 96-45, Public Notice, DA 96-1078 (rel. July 3, 1996).

<sup>43/</sup> Id., questions 34 and 41.

<sup>44/</sup> Recommended Decision at ¶ 434.

finding on factors identified by PRTC and other carriers serving insular areas. For example, carriers serving insular areas face increased costs of shipping, damage from tropical storms, and technical difficulties in providing service.<sup>45</sup> These factors are applicable to all carriers serving insular areas whether they are rural or not.

The Joint Board appeared to acknowledge this fact in holding an open meeting for discussion of the issues facing insular areas.<sup>46</sup> Having heard the points raised by the participants on the insular areas panel and in pertinent comments, the Joint Board recommended that rural carriers serving high cost insular areas should receive universal support based on their 1995 embedded costs. The Joint Board has offered no rationale for different treatment of carriers serving insular areas, and no party representing any of these areas has proposed such disparate treatment.

The Joint Board has offered reasons for treating rural telephone companies differently than other local exchange carriers for the purposes of calculating high cost support.

First, none of the models adequately represents the costs for rural carriers as all the models are currently based on expense data for large LECs, serving predominately urban areas. Second, small carriers, with their limited revenue streams, will be significantly affected if the model does not

---

<sup>45/</sup> Id. at ¶ 434.

<sup>46/</sup> See Federal-State Joint Board on Universal Service to Hold and Open Meeting on Insular Areas and the Recovery of Interstate Loop Costs, Public Notice, DA 96-1505 (rel. September 9, 1996).

accurately reflect their costs. Third, the proxy models should be refined and modified to reflect the special characteristics of rural carriers before requiring those carriers to move to a proxy model for determining universal service support.<sup>47</sup>

This rationale does not distinguish rural carriers from other carriers serving insular areas, and in fact, it supports the argument that USF support for carriers serving insular areas should not be based on a proxy cost model. Any carrier serving an insular area will experience non-urban-based costs, will be "significantly affected" if the model inaccurately predicts costs, and would benefit from the refinement of a proxy model that actually calculates universal service support based on the "special characteristics" of insular areas. Therefore, any eligible carrier serving an insular area should receive universal service funds according to the same cost support mechanism.

Indeed, the Joint Board found that "[t]he unique nature of service" in insular areas required distinct treatment for rural carriers serving these areas.<sup>48</sup> The proxy cost models discussed throughout this proceeding have excluded Puerto Rico, and only recently has U S West stated that the Benchmark Costing Model

---

<sup>47/</sup> Recommended Decision at ¶ 271.

<sup>48/</sup> Id. at ¶ 272; see also id. at ¶ 285 (finding that USF support for rural carriers should be calculated initially based on embedded costs "because of the difficulty in precisely modelling small, rural carriers' costs"). Based on this rationale, rural carriers serving insular areas must be treated differently from other rural carriers because of the added difficulty of using a proxy cost model for these unique cost factors. See id. at ¶ 285.

Version 2 includes Puerto Rico.<sup>49</sup> This is incorrect, however, because while Version 2 contains a Puerto Rico directory, the directory is empty! For the same reasons proxy cost models cannot be relied upon to predict costs for rural carriers in general, they also cannot be relied upon to predict the level of universal support necessary for carriers in insular areas so that these carriers can maintain service and engage in efforts to improve universal service in these areas of unique costs and low subscribership.<sup>50</sup>

B. Under the Recommended Decision, Puerto Rico Will Not Receive The Support That Congress Has Mandated for Insular Areas

Despite the fact that Puerto Rico, an island in the Caribbean, is an insular area, the Joint Board's Recommended Decision has the effect of denying universal service support to Puerto Rico based upon the mechanism recommended for insular areas. PRTC, the only carrier currently offering service in Puerto Rico, does not meet the definition of a rural carrier, even though for the foreseeable future it will be the only carrier reaching those unserved and underserved areas that are most in need of universal service support.

---

<sup>49/</sup> Id. at ¶ 243.

<sup>50/</sup> The Northern Mariana Islands has reported a service penetration rate of 27.6 percent, and that only 66.8 percent of the population has a telephone. Commonwealth of the Northern Mariana Islands Comments at 10 (footnotes omitted). Similarly, Vitelco estimates the subscribership rate for the Virgin Islands is 87.8 percent. Virgin Islands Telephone Company Reply Comments at 2.

C. Any Proxy Model That the Commission May Adopt for Use by PRTC Must Take into Account Those Factors that Increase Costs for Insular Areas

If the Commission retains the Joint Board's bifurcated approach toward providing universal service to insular areas, then the proxy cost model that is ultimately adopted must include inputs related to the factors unique to insular areas that contribute to carriers' high costs. In Puerto Rico, the cost of providing service is high, due in part to its unique climate and topography. Economic factors facing most insular areas, like the high cost of shipping goods, increase the cost of service. Also, most telephone equipment shipped to Puerto Rico is subject to a 6.6 percent excise tax. The wet and humid tropical climate and corresponding hurricanes and tropical storms — thirteen affecting the area in 1996 alone — take their toll on telephone company plant and equipment. These are factors not readily accounted for in proxy cost model calculations.

Also, the models that have been discussed thus far tend to emphasize population density as an important determinant of loop costs. However, such a focus in Puerto Rico will skew the results. PRTC provides plant throughout the island, but in many instances, these economies are undermined by the low penetration rate, i.e., those consumers that elect not to subscribe, resulting in passed houses, even though the sunk costs of the loop have already been invested in the area. Therefore, PRTC does not gain from economies of scale like the hypothetical LEC toward which a proxy model will be geared.

The fact that such important differences among carriers can go unnoticed is best exemplified by the Commission's attempt to apply the same local loop proxy ceiling (\$12.47) to Puerto Rico that it selected for New Jersey based on the similar population densities in the two areas. However, according to the Commission's Monitoring Report, the actual local loop cost in New Jersey is \$202.66. In Puerto Rico, however, the local loop cost is \$356.78, demonstrating that a cost calculation based on assumed population comparisons without incorporating additional factors fails. In order to predict accurate support requirements, proxy cost models must incorporate factors including economic costs, climate, topography, and population density that affect the actual costs a carrier will experience in providing service in an insular area like Puerto Rico.

**V. THE COMMISSION SHOULD REVISE THE RECOMMENDED DECISION TO INCORPORATE AFFORDABILITY INTO THE CALCULATION AND TO APPLY THE SAME MECHANISM TO ALL CARRIERS SERVING INSULAR AREAS**

**A. Affordability Should Be Used to Determine USF Support Payments**

Affordability should be incorporated into the proposed USF mechanism for determining the level of support for a carrier. The Commission can use affordability measured by subscribership levels to make a threshold determination and then as a factor to adjust support to address affordability of rates. The affordability adjustment should be applied only for carriers serving areas where the subscribership level is below the national average. As the Joint Board concluded, subscribership

level is an objective criterion for determining whether rates are affordable in a particular area. If the subscribership level in an eligible carrier's service area is more than five percentage points below the national average, then the local rate is presumptively not affordable.

For carriers serving these areas, the national benchmark should be adjusted by a factor proportionate to the difference between the income level of the particular service area and the national average income level prior to comparing the benchmark to costs for determining the support due. For example, the per capita income in Puerto Rico is 71 percent below the national per capita income. Therefore, for all eligible carriers offering service in Puerto Rico, the benchmark average revenues-per-line will be adjusted downward by a set factor, thereby acknowledging that the rates must be made more affordable in the area until the subscribership level reaches an acceptable level. The carrier's costs, whether estimated according to a proxy model or calculated based on embedded costs, will then be assessed as compared to the adjusted national benchmark to calculate the universal service support. Using this methodology, the Commission will satisfy Congress' instruction to ensure that rates are just, reasonable, and affordable in a way that meaningfully reaches any carrier that is eligible for support and serving an area with low subscribership.

B. USF Support Should be Distributed in Puerto Rico Based on Embedded Costs

The Commission should clarify that the Recommended Decision with respect to insular areas is appropriate for all carriers that provide service to these areas. Insular areas face unique costs and generally below-average subscribership levels. Any carrier that offers service throughout a designated service area will experience these conditions. Therefore, PRTC should receive universal service funds based on its 1995 embedded loop costs.

Uniform treatment among eligible carriers in insular areas is especially important, because no appropriate model has yet been identified. Until such time that a proxy cost model is adopted, the ability of a model to predict accurately costs in insular areas remains untested and unlikely. Due to geographic, economic, climatic, and population density factors unique to an insular area like Puerto Rico, it is nonsensical to believe that a model that will predict accurately costs for areas like New Jersey will do the same for Puerto Rico.

The Joint Board determined that rural carriers should not bear the risk of this likely inaccuracy due to the proxy models' inability to incorporate unique cost factors. For the same reason, carriers serving insular areas of low service penetration rate similarly should not bear this risk of lost support and corresponding losses in universal service gains. Therefore, consistent with the 1996 Act, consumers serving insular areas should benefit from universal service support, regardless of the category of carrier that serves them.



**VI. The Commission Lacks Jurisdiction to Collect Contributions for the Schools and Libraries Fund Based on Interstate and Intrastate Revenues**

Section 254(d) requires that "[e]very telecommunications carrier that provides interstate telecommunications services shall contribute" to the universal service fund.<sup>51</sup> This collection mechanism based only on interstate revenues is required by the clear jurisdictional separation between intrastate and interstate matters that remains intact pursuant to Section 2(a) of the Communications Act.<sup>52</sup> Congress reflected its intent to retain this jurisdictional distinction for the schools and libraries fund under Section 254(h) (1) (B) where it found that the Commission will determine the discount for interstate services and the states will determine the discount for intrastate services.<sup>53</sup>

The Commission must not adopt the Joint Board's recommendation that support for schools, libraries, and rural health care providers should be based on both the interstate and intrastate revenues of interstate service providers.<sup>54</sup> This proposal is in direct contradiction with the words of the universal service provision and with traditional jurisdictional distinctions between interstate and intrastate services. The Joint Board's explanation that "the statute does not expressly

---

<sup>51/</sup> 47 U.S.C. § 254(d) .

<sup>52/</sup> 47 U.S.C. § 152(a) (2) .

<sup>53/</sup> 47 U.S.C. § 254(h) (1) (B) .

<sup>54/</sup> Recommended Decision at ¶ 817.

identify the assessment base for the calculation of the contribution,"<sup>55</sup> is unpersuasive. A specific provision excepting the statutory division between interstate and intrastate jurisdiction would be necessary to justify the collection of contributions that include intrastate revenues.<sup>56</sup> Not only is there no such exception made in the context of universal service, but the language is decidedly to the contrary, retaining jurisdictional separations. Therefore, the Commission must reject the Joint Board's proposal to base contributions for the schools and libraries fund on interstate and intrastate revenues.

## VII. CONCLUSION

For these reasons, PRTC respectfully requests that the Commission take the following actions with respect to the Federal-State Joint Board's Recommended Decision on universal service. First, the Commission should revise the distribution mechanism to incorporate affordability. For any area with a subscribership level more than 5% below the national average, the national average revenues-per-line benchmark should be adjusted in proportion to the difference between the service area per capita income and the national average per capita income. Second, the Commission should clarify that carriers serving insular areas should receive universal service support based upon the same actual cost methodology. This clarification is required

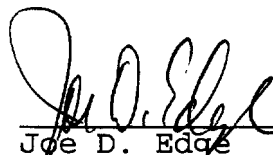
---

<sup>55/</sup> See id. at ¶ 820.

<sup>56/</sup> See, e.g., 47 U.S.C. §§ 152(b) and 332(c).

because these carriers face the same unique cost factors that will be difficult to account for in a proxy cost model. However, to the extent that a proxy cost model is used, it must address the these unique factors, such as population density, climate, and topography. Finally, the Commission should reject the Joint Board's proposal to collect contributions to the schools and libraries fund based on interstate and intrastate revenues, because it does not have jurisdiction under the Communications Act to assess intrastate revenues.

Respectfully submitted,



Joe D. Edge  
Tina M. Pidgeon  
DRINKER BIDDLE & REATH  
901 15th Street, N.W.  
Suite 900  
Washington, D.C. 20005  
(202) 842-8800  
(202) 842-8465

Attorneys for  
PUERTO RICO TELEPHONE COMPANY

Dated: December 19, 1996

CERTIFICATE OF SERVICE

I, Marjorie A. Schroeder, do hereby certify that a copy of the foregoing Comments was sent by first class United States mail, postage prepaid, this 19th day of December, 1996, to the following:

William F. Caton\*  
Secretary  
Federal Communications  
Commission  
1919 M Street, NW, Room 222  
Washington, DC 20554

Sheryl Todd\*  
Common Carrier Bureau  
Federal Communications  
Commission  
2100 M Street, NW, Room 8611  
Washington, DC 20554

ITS\*  
2100 M Street, NW  
Room 140  
Washington, DC 20037

The Honorable Reed E. Hundt  
Chairman  
Federal Communications  
Commission  
1919 M Street, NW, Room 814  
Washington, DC 20554

The Honorable Rachelle B.  
Chong  
Commissioner  
Federal Communications  
Commission  
1919 M Street, NW, Room 844  
Washington, DC 20554

The Honorable Susan Ness  
Commissioner  
Federal Communications  
Commission  
1919 M Street, NW, Room 832  
Washington, DC 20554

The Honorable Julia Johnson  
Commissioner  
Florida Public Service  
Commission  
2540 Shumard Oak Blvd.  
Gerald Gunter Building  
Tallahassee, FL 32399-0850

The Honorable Kenneth McClure  
Commissioner  
Missouri Public Service  
Commission  
301 W. High Street, Suite 530  
Jefferson City, MO 65101

The Honorable Sharon L. Nelson  
Chairman  
Washington Utilities and  
Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250

The Hon. Laska Schoenfelder  
Commissioner  
South Dakota Public Utilities  
Commission  
State Capitol  
500 E. Capitol Street  
Pierre, SD 57501-5070

Martha S. Hogerty  
Public Counsel for the State  
of Missouri  
P.O. Box 7800  
Jefferson City, MO 65102

Paul E. Pederson  
State Staff Chair  
Missouri Public Service  
Commission  
P.O. Box 360  
Jefferson City, MO 65102

Lisa Boehley  
Federal Communications  
Commission  
2100 M Street, NW, Room 8605  
Washington, DC 20554

Charles Bolle  
South Dakota Public Utilities  
Commission  
State Capitol  
500 E. Capitol Street  
Pierre, SD 57501-5070

Deonne Bruning  
Nebraska Public Service  
Commission  
300 The Atrium  
1200 N Street, P.O. Box 94927  
Lincoln, NE 68509-4927

James Casserly  
Federal Communications  
Commission  
Office of Commissioner Ness  
1919 M Street, Room 832  
Washington, DC 20554

John Clark  
Federal Communications  
Commission  
2100 M Street, NW, Room 8619  
Washington, DC 20554

Bryan Clopton  
Federal Communications  
Commission  
2100 M Street, NW, Room 8615  
Washington, DC 20554

Irene Flannery  
Federal Communications  
Commission  
2100 M Street, NW, Room 8922  
Washington, DC 20554

Daniel Gonzalez  
Federal Communications  
Commission  
Office of Commissioner Chong  
1919 M Street, NW, Room 844  
Washington, DC 20554

Emily Hoffnar  
Federal Communications  
Commission  
2100 M Street, NW, Room 8623  
Washington, DC 20554

L. Charles Keller  
Federal Communications  
Commission  
2100 M Street, NW, Room 8918  
Washington, DC 20554

Lori Kenyon  
Alaska Public Utilities  
Commission  
1016 West Sixth Avenue  
Suite 400  
Anchorage, AK 99501

David Krech  
Federal Communications  
Commission  
2025 M Street, NW, Room 7130  
Washington, DC 20554

Debra M. Kriete  
Pennsylvania Public Utilities  
Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Diana Law  
Federal Communications  
Commission  
2100 M Street, NW, Room 8920  
Washington, DC 20554

Mark Long  
Florida Public Service  
Commission  
2540 Shumard Oak Blvd.  
Gerald Gunter Building  
Tallahassee, FL 32399

Robert Loube  
Federal Communications  
Commission  
2100 M Street, NW, Room 8914  
Washington, DC 20554

Samuel Loudenslager  
Arkansas Public Service  
Commission  
P.O. Box 400  
Little Rock, AR 72203-0400

Sandra Makeeff  
Iowa Utilities Board  
Lucas State Office Building  
Des Moines, IA 50319

Philip F. McClelland  
Pennsylvania Office of  
Consumer Advocate  
PA Public Utility  
Commission  
1425 Strawberry Square  
Harrisburg, PA 17120

Michael A. McRae  
D.C. Office of the People's  
Counsel  
1133 15th Street, NW  
Suite 500  
Washington, DC 20005

Tejal Mehta  
Federal Communications  
Commission  
2100 M Street, NW, Room 8625  
Washington, DC 20554

Terry Monroe  
New York Public Service  
Commission  
3 Empire Plaza  
Albany, NY 12223

John Morabito  
Deputy Division Chief,  
Accounting and Audits  
Federal Communications  
Commission  
2000 L Street, NW, Room 812  
Washington, DC 20554

Mark Nadel  
Federal Communications  
Commission  
2100 M Street, NW, Room 8916  
Washington, DC 20554

John Nakahata  
Federal Communications  
Commission  
Office of the Chairman  
1919 M Street, NW, Room 814  
Washington, DC 20554

Lee Palagyi  
Washington Utilities and  
Transportation Commission  
1300 S. Evergreen Park Dr., SW  
Olympia, WA 98504

Kimberly Parker  
Federal Communications  
Commission  
2100 M Street, NW, Room 8609  
Washington, DC 20554

Barry Payne  
Indiana Office of the Consumer  
Counsel  
100 North Senate Avenue  
Room N501  
Indianapolis, IN 46204-2208

Jeanine Poltronieri  
Federal Communications  
Commission  
2100 M Street, NW, Room 8924  
Washington, DC 20554

James Bradford Ramsay  
National Association of  
Regulatory Utility  
Commissioners  
P.O. Box 684  
Washington, DC 20044-0684

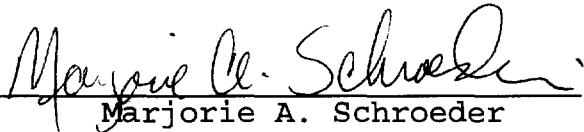
Brian Roberts  
California Public Utilities  
Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Gary Seigel  
Federal Communications  
Commission  
2000 L Street, NW, Room 812  
Washington, DC 20554

Richard Smith  
Federal Communications  
Commission  
2100 M Street, NW, Room 8605  
Washington, DC 20554

Pamela Szymczak  
Federal Communications  
Commission  
2100 M Street, NW, Room 8912  
Washington, DC 20554

Lori Wright  
Federal Communications  
Commission  
2100 M Street, NW, Room 8603  
Washington, DC 20554

  
Marjorie A. Schroeder

\*via hand delivery





**PRTC Interstate Support  
From 1995**

	<b>Source/Description</b>	<b>Amount</b>
1. Long Term Support - 1995	WS 2B	\$59,447,949
2. USF - 1995 Data	WS 2A	\$27,014,415
3. Total Support	Sum Ln 1 - Ln 2	\$86,462,364
4. Contribution Under New USF	WS 3	\$27,370,793
5. "Make Whole" Funding Requirement Under New USF	Sum Ln 3 - Ln 4	\$113,833,157
6. PRTC Residence Access Lines	1996 Annual Access Filing	854,520
7. PRTC Single Line Business	1996 Annual Access Filing	111,931
8. Total PRTC Lines Eligible for NUSF	Sum Ln 6 - Ln 7	966,451
9. NUSF Funding Requirement	Ln 5 / Ln 8	\$9.82
10. Maximum Federal Lifeline Support	Rec. Dec. Para 419	\$7.00
11. Number of Eligible Families (Potential)	WS 4	889,998
12. Penetration Rate	Records	74.00%
13. % of Families Below Poverty Level	WS 4	55.20%
14. Eligible Families Currently With Telephone Service	Ln 13 - (1-Ln 12) X Ln 11	258,099
15. Support From Lifeline	Ln 10 X Ln 14 x 12	\$21,680,351
16. Remaining USF Requirement	Ln 5 - Ln 15	\$92,152,806
17. NUSF Funding Requirement Excluding Lifeline	Ln 16 / Ln 8	\$7.95